

1 H.619

2 Introduced by Representatives Scheuermann of Stowe, Branagan of Georgia,  
3 Canfield of Fair Haven, Dickinson of St. Albans Town, Greshin  
4 of Warren, Hebert of Vernon, Howard of Cambridge, Johnson  
5 of Canaan, Kitzmiller of Montpelier, Komline of Dorset,  
6 Lawrence of Lyndon, Marcotte of Coventry, Olsen of Jamaica,  
7 Ralston of Middlebury, Russell of Rutland City, South of St.  
8 Johnsbury and Young of Glover

9 Referred to Committee on

10 Date:

11 Subject: Commerce and trade; taxation; manufacturing

12 Statement of purpose: This bill proposes to create a division of manufacturing  
13 within the agency of commerce and community development and transition to  
14 a single sales factor for business taxation.

15 An act relating to supporting manufacturing and industry

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 Sec. 1. 3 V.S.A. § 2471e is added to read:

18 § 2471e. DIVISION OF MANUFACTURING

19 (a) The division of manufacturing is created within the department of  
20 economic, housing and community development.

1       (b) The secretary shall designate an employee of the department of  
2       economic, housing and community development to serve as the director of the  
3       division.

4       (c) The director shall perform his or her duties with the benefit of the  
5       advice and consultation of an advisory panel composed of individuals with  
6       expertise in Vermont manufacturing industries, who shall be appointed as  
7       follows:

8           (1) three members appointed by the Vermont Manufacturing Extension  
9       Center;

10          (2) three members appointed by the Associated Industries of Vermont;  
11       and

12          (3) three members selected by majority vote of the directors of the  
13       regional development corporations.

14       (d) The purpose of the division shall be to:

15           (1) raise the profile and visibility of Vermont manufacturing industries  
16       within the agency and throughout the state;

17           (2) preserve and provide support to existing Vermont manufacturing  
18       businesses;

19           (3) review actions of state agencies and the general assembly to  
20       determine the impact of those actions on Vermont manufacturing;

1           (4) develop regulatory recommendations to retain and expand Vermont  
2           manufacturing industries; and

3           (5) develop legislative recommendations to retain and expand Vermont  
4           manufacturing industries.

5           Sec. 2. 32 V.S.A. § 5833 is amended to read:

6           § 5833. ALLOCATION AND APPORTIONMENT OF INCOME

7           (a) If the income of a taxable corporation is derived from any trade,  
8           business, or activity conducted entirely within this state, the Vermont net  
9           income of the corporation shall be allocated to this state in full. If the income  
10          of a taxable corporation is derived from any trade, business or activity  
11          conducted both within and without this state, the amount of the corporation's  
12          Vermont net income which shall be apportioned to this state, so as to allocate  
13          to this state a fair and equitable portion of that income, shall be determined by  
14          multiplying that Vermont net income by the arithmetic average of the  
15          following factors, with the sales factor described in subdivision (3) of this  
16          subsection double-weighted:

17          (1) The average of the value of all the real and tangible property within  
18          this state (A) at the beginning of the taxable year and (B) at the end of the  
19          taxable year (but the commissioner may require the use of the average of such  
20          value on the fifteenth or other day of each month, in cases where he or she  
21          determines that such computation is necessary to more accurately reflect the

1 average value of property within Vermont during the taxable year), expressed  
2 as a percentage of all such property both within and without this state;

3 (2) The total wages, salaries, and other personal service compensation  
4 paid during the taxable year to employees within this state, expressed as a  
5 percentage of all such compensation paid whether within or without this state;

6 (3) The gross sales, or charges for services performed, within this state,  
7 expressed as a percentage of such sales or charges whether within or without  
8 this state. Sales of tangible personal property are made in this state if the  
9 property is delivered or shipped to a purchaser, other than the United States  
10 government, who takes possession within this state, regardless of f.o.b. point or  
11 other conditions of sale, ~~or the property is shipped from an office, store,  
12 warehouse, factory or other place of storage in this state and (A) the purchaser  
13 is the United States government; or (B) the corporation is not taxable in the  
14 state in which the purchaser takes possession.~~ Sales other than sales of  
15 tangible personal property are in this state if the income producing activity is  
16 performed in this state or the income producing activity is performed both in  
17 and outside this state and a greater proportion of the income producing activity  
18 is performed in this state than in any other state, based on costs of  
19 performance.

20 \* \* \*

1 Sec. 3. 32 V.S.A. § 5833 is amended to read:

2 § 5833. ALLOCATION AND APPORTIONMENT OF INCOME

3 (a) If the income of a taxable corporation is derived from any trade,  
4 business, or activity conducted entirely within this state, the Vermont net  
5 income of the corporation shall be allocated to this state in full. If the income  
6 of a taxable corporation is derived from any trade, business or activity  
7 conducted both within and without this state, the amount of the corporation's  
8 Vermont net income which shall be apportioned to this state, so as to allocate  
9 to this state a fair and equitable portion of that income, shall be determined by  
10 multiplying that Vermont net income by the arithmetic average of the  
11 following factors, with the sales factors described in subdivisions (1) and (2) of  
12 this subsection each counted one time, and the sales factor described in  
13 subdivision (3) of this subsection ~~double-weighted~~ counted six times:

14 (1) The average of the value of all the real and tangible property within  
15 this state (A) at the beginning of the taxable year and (B) at the end of the  
16 taxable year (but the commissioner may require the use of the average of such  
17 value on the fifteenth or other day of each month, in cases where he or she  
18 determines that such computation is necessary to more accurately reflect the  
19 average value of property within Vermont during the taxable year), expressed  
20 as a percentage of all such property both within and without this state;



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2 to this state a fair and equitable portion of that income, shall be determined by  
3 multiplying that Vermont net income by ~~the arithmetic average of the~~  
4 ~~following factors, with the sales factors described in subdivisions (1) and (2) of~~  
5 ~~this subsection each counted one time, and the sales factor described in~~  
6 ~~subdivision (3) of this subsection counted six times:~~

7 (1) ~~The average of the value of all the real and tangible property within~~  
8 ~~this state (A) at the beginning of the taxable year and (B) at the end of the~~  
9 ~~taxable year (but the commissioner may require the use of the average of such~~  
10 ~~value on the fifteenth or other day of each month, in cases where he or she~~  
11 ~~determines that such computation is necessary to more accurately reflect the~~  
12 ~~average value of property within Vermont during the taxable year), expressed~~  
13 ~~as a percentage of all such property both within and without this state;~~

14 (2) ~~The total wages, salaries, and other personal service compensation~~  
15 ~~paid during the taxable year to employees within this state, expressed as a~~  
16 ~~percentage of all such compensation paid whether within or without this state;~~

17 (3) ~~The the gross sales, or charges for services performed, within this~~  
18 ~~state, expressed as a percentage of such sales or charges whether within or~~  
19 ~~without this state. Sales of tangible personal property are made in this state if~~  
20 ~~the property is delivered or shipped to a purchaser, other than the United States~~  
21 ~~government, who takes possession within this state, regardless of f.o.b. point or~~

1 other conditions of sale. Sales other than sales of tangible personal property  
2 are in this state if the income producing activity is performed in this state or the  
3 income producing activity is performed both in and outside this state and a  
4 greater proportion of the income producing activity is performed in this state  
5 than in any other state, based on costs of performance.

6 \* \* \*

7 Sec. 5. EFFECTIVE DATES

8 (a) This section and Sec. 1 of this act shall take effect on passage.

9 (b)(1) Sec. 2 of this act (“throwback rule”) shall take effect on July 1, 2012.

10 (2) Sec. 3 of this act (increase in weight of sales for purposes of  
11 apportionment) shall take effect on July 1, 2013.

12 (3) Sec. 4 of this act (business tax apportionment based solely on sales)  
13 shall take effect on July 1, 2014.